IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2300 OF 2005.

Chandrakant Prabhu Nirwan. .. Applicant

Vs

The State of Maharashtra. .. Respondent

Mr. Vikas Shivarkar, for the applicant.
Mr.K.V.Saste, APP, for the respondent-State.

CORAM: A.M.KHANWILKAR,J

DATED: APRIL 11, 2005.

P.C.:

1. Heard the counsel for parties. Perused the record.

2. Indeed, offence in question is serious offence. But I find substance in the submission canvassed on behalf of the applicant that having regard to the fact that no injury has been reported on the person of the prosecutrix, the prosecution theory that it was a forced intercourse become doubtful. Besides, F.I.R. has been lodged two days after the incident after due deliberations.

3. The learned APP submits that if the prosecutrix was consenting party, there was no reason to lodge F.I.R. as no one else had seen them in compromising position. Even if it is so, the fact that there are no injury report on the person of the prosecutrix, is a relevant circumstance to support the case made out by the applicant. Because it is a common ground that the applicant and prosecutrix came in contact for over one year as stated in the F.I.R.itself.

4. Accordingly, taking over all view of the matter, applicant deserves to be granted bail on following conditions.

(i) The applicant is directed to be enlarged on bail in connection with the C.R.No.114 of 2004, registered at Saswad Police Station on executing Personal Bond in the sum of Rs.15,000/- with one or two sureties in like amount.

(ii) The applicant shall not enter the jurisdiction of Saswad Police Station during the pendency of the trial.

(iii) The applicant shall inform his place of

residence to Investigating Officer as well as to the trial court within one week from the date of release.

(iv) The applicant shall report to the nearest police station once in a month i.e. on first Sunday between 10 a.m. to 2 p.m..

(v) The applicant shall not influence any prosecution witnesses nor tamper with any prosecution evidence in any manner, whatsoever.

(vi) The applicant shall co-operate for early disposal of the trial as condition for bail. In the event, the trial court is of the view that the applicant is responsible for the delay in trial in any manner, that will be recorded in the roznama and that can be the basis for cancellation of bail.